

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application No. 10/790,527

Applicant: Alexander

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Confirmation No.: 2771

Examiner: Jason Paul Riggelman

Docket No.: 226256

Customer No.: 23460

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO REQUIREMENT FOR RESTRICTION

Sir:

In response to the Office Action dated June 3, 2009, Applicant hereby provisionally elects Species I (claims 1-17 and 34-39) for further prosecution.

For the reasons set forth in the prior prosecution, the claims all are believed to distinguish over the prior art so as to be in condition for allowance. Accordingly, an early action to that effect is respectfully requested.

Applicant hereby respectfully requests reconsideration of the requirement. While the inventions of the indicated Species may be independent and distinct, the available evidence indicates that the restriction requirement is inappropriate and that the Examiner has not set forth a prima facie case in support of the restriction requirement.

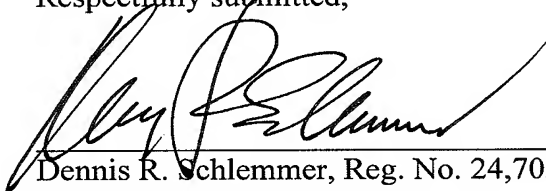
There are two criteria for a proper requirement for restriction between patentably distinct inventions: (i) the inventions must be independent or distinct as claims, and (ii) there must be a serious burden on the Examiner if restriction is not required. M.P.E.P. § 803. Consequently, as set forth in M.P.E.P. § 803: "If the search and examination of an entire

application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.”

In this case, it is believed that any thorough and comprehensive search conducted by the Examiner of claims of either Group would include the same areas of search regardless of primary classification. The “serious burden” test for restriction would not appear to be present.

Accordingly, it is requested that the requirement for restriction be withdrawn.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Dennis R. Schlemmer', is written over a horizontal line.

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